

NATIONAL RECOVERY ADMINISTRATION

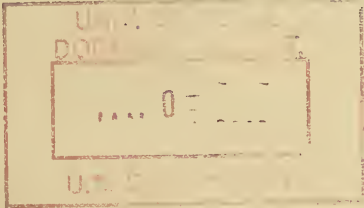
CODE OF FAIR COMPETITION

FOR THE


ATHLETIC GOODS

MANUFACTURING INDUSTRY

AS APPROVED ON FEBRUARY 2, 1934



UNITED STATES
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CODE OF FAIR COMPETITION
FOR THE
ATHLETIC GOODS MANUFACTURING INDUSTRY
As Approved on February 2, 1934

ORDER

**APPROVING CODE OF FAIR COMPETITION FOR THE ATHLETIC GOODS
MANUFACTURING INDUSTRY**

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Athletic Goods Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved, provided that the continued participation of each of the trade associations participating in the selection or activities of the Code Authority after thirty days from the effective date of this Code shall be contingent upon their amending their respective constitutions and bylaws to the satisfaction of the Administrator; and provided further, that within ninety days I may direct that there be a further hearing on such of the provisions of said Code as I may designate, and that any order which I may make after such hearing shall have the effect of a condition on the approval of said Code.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

GEO. L. BERRY,
Division Administrator.
WASHINGTON, D.C.,
February 2, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: A public hearing on the Code of Fair Competition for the Athletic Goods Manufacturing Industry was conducted in Washington on November 10, 1933, in accordance with the provisions of the National Industrial Recovery Act. This Code was submitted by the Athletic Goods Manufacturers Association, located in New York; the National Association of Golf Club Manufacturers, located in New York; the Golf Ball Manufacturers Association, located in Providence, Rhode Island; the Athletic Shoe Manufacturers Association, located in Cincinnati, Ohio; the Tennis Racket Manufacturers Association, located in North Attleboro, Massachusetts; and the Golf Bag Manufacturers Association, located in Chicago, Illinois. These Associations claim to represent approximately 87 percent of the Industry.

After the Code was submitted by the above-named Associations the Sporting Goods and Athletic Wear Association signified their desire to come under the provisions of the Code for the Athletic Goods Manufacturing Industry. They were represented at the hearing and participated in the formulation of this Code.

The maximum hours established in this Code are forty (40) per week for employees engaged in accounting, clerical, stenographic, or similar work, with a provision for sixteen (16) additional hours in any chosen thirteen (13) week period. Employees engaged in plant, factory, or mechanical work are not permitted to work in excess of 1,040 hours in any six (6) month period, and are to be paid time and one third for all hours worked in excess of eight (8) hours in any one day or forty-four (44) in any one week, and that no such employee shall be permitted to work in excess of ten (10) hours in any one day or forty-eight (48) hours in any one week.

Exceptions as to hours are granted to employees in an executive, managerial, supervisory, or technical capacity, and their immediate assistants, who receive \$35.00 per week or more, and to outside salesmen and emergency workers. Chauffeurs, engineers, firemen, water tenders, oilers, or maintenance men are not permitted to work in excess of forty-eight (48) hours per week. The maximum hours for watchmen are fifty-six (56) per week.

In 1929 this Industry operated approximately fifty (50) hours per week and in 1931 approximately forty-eight (48) hours per week. During 1929 approximately 10,793 wage earners were employed in the Industry and in 1931 there were approximately 10,176 wage earners. It is estimated that a forty-five (45) hour week would bring employment back to the 1929 level. This Industry should be commended on the establishment of a forty (40) hour week, inasmuch

as it will employ even more workers than were employed in 1929. On the basis of the forty (40) hour week approximately 2,035 workers will benefit through reemployment.

The Code establishes minima ranging from \$14.00 to \$15.00 per week according to locality, and provides for adjustment of wages above the minimum. The minimum wage for employees paid on an hourly basis is thirty-five (35) cents per hour, with exceptions for workers between 16 and 21 years of age who are engaged in light work, such as messengers and junior clerks; also for beginners and apprentices. The minimum for these classes of employees is twenty-eight (28) cents per hour. Handicapped persons doing light work and whose earning capacity is limited may be employed at rates below the minimum, provided the employer obtains a certificate from the State authority designated by the United States Department of Labor. The number of these subminimum employees is not to exceed 10 percent of the total number of a member's employees. Provision is made that female employees performing substantially the same work as male employees shall receive the same rate of pay. A wage differential of two and one half cents per hour is allowed for the Southern district.

Home work is to be eliminated from this Industry, except that for a period of one year from the effective date of this Code low-grade baseballs and playground balls may be sewn at home, provided that the compensation therefor is not less than the rate of pay in effect for such work on July 15, 1929, plus an increase of 20 percent. It is further provided that the Code Authority shall investigate the home work problem within ninety days after the effective date of this Code and report its findings to the Administrator. It would seem inadvisable to entirely eliminate home work at this time for the reason that it would not increase employment in the industry and would only serve to work a hardship on several small communities where this type of work is being done on an extensive scale.

Wages in this Industry represented 22.5 percent of the value of products in 1929, as compared with 16.5 percent for all industries combined. In 1931 wages in this line of activity represented 22.8 percent of the value of products, as compared with 17.5 percent for combined industries.

Wage earners in 1931, on a 48-hour basis, were paid an average of 44.2 cents per hour, or \$21.22 per week.

The increase in price to the purchaser should not represent more than 12 percent by the increased wage rates and shortened hours. If wages in this Industry are maintained at the 1929 hourly average, i.e., 46.8 cents per hour, and on the basis of a 40-hour week, the total pay roll would increase approximately three million dollars, or 26.5 percent, over the 1931 pay roll total.

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will pro-

vide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant associations are trade associations truly representative of the aforesaid Industry; and that participation in the selection or activities of the Code Authority after thirty days from the effective date of this Code shall be contingent upon their amending their respective constitutions and bylaws to the satisfaction of the Administrator.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

This Industry has cooperated in a most satisfactory manner with the Administrator in the preparation of this Code. From the evidence adduced during this hearing and from recommendations and reports of the various Advisory Boards, it is believed that this Code in its present form as approved represents an affective, practical, equitable solution for this Industry and for these reasons this Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

FEBRUARY 2, 1934.

CODE OF FAIR COMPETITION FOR THE ATHLETIC GOODS MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Athletic Goods Manufacturing Industry and shall be the standard of fair competition for this Industry and binding upon every member thereof.

ARTICLE II—DEFINITIONS

1. The term "Athletic Goods Manufacturing Industry", as used herein, includes all manufacturers who produce and/or wholesalers who import athletic goods, but does not include retailers, whether or not they are also importers of athletic goods.

2. The term "Athletic Goods", as used herein, includes all the balls, implements, and equipment used in any or all of the athletic games or sports enumerated below; excepting those used for the building and/or maintenance of the courts, fields, grounds, and pools where such games are played:

- (a) Golf.
- (b) Tennis, court tennis, badminton, racquets, squash racquets, squash tennis, handball.
- (c) Football, Basket Ball, Soccer, Rugby Football, Volley Ball, Water Polo, and all other athletic games using an inflated ball.
- (d) Baseball, including all variations thereof, played with a hard or soft ball and bat.
- (e) LaCrosse.
- (f) Polo and hockey, including all variations thereof, excepting skates.
- (g) Track and Field Athletics.
- (h) Boxing and Wrestling.
- (i) Archery.
- (j) Cricket.
- (k) Felt and/or chenille emblems, letters, and pennants. The term also includes gymnasium and playground equipment, medicine balls, uniforms used for athletic purposes (except the juvenile sizes used as play suits); and other similar athletic wear manufactured exclusively for athletic purposes; and especially constructed track shoes and athletic shoes worn by players in the games of baseball and football only.

3. The term "Employee", as used herein, includes any person engaged in any phase of the industry, in any capacity, irrespective of the method of payment of his compensation, except a member of the industry.

4. The term "employer", as used herein, includes anyone for whose benefit such an employee is so engaged.

5. The term "member of the industry" includes but without limitation any individual, partnership, association, corporation, or other form of enterprise engaged in the industry, either as an employer or on his or its own behalf.

6. The term "piecework basis" includes all payment of wages by pieces or quantity produced, including all modifications of piecework basis such as the Bedeau System of Wage Payments.

7. The term "wage" shall be defined as the rate of pay per hour to those whose services are paid on that basis.

8. The term "salary" shall be defined as the amount paid per week to those whose services are paid on this basis.

9. Population for the purpose of this Code shall be determined by reference to the 1930 Federal census.

10. The term "southern district" as used herein, means the States of Virginia, West Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, Tennessee, Kentucky, Oklahoma, Arkansas, Texas, New Mexico, and Arizona. The Northern district includes all other states and the District of Columbia.

ARTICLE III—HOURS

SECTION 1. No employee engaged in accounting, clerical, stenographic, or similar work, shall be permitted to work in excess of forty (40) hours per week, except that any such employee may be permitted to work sixteen (16) additional hours in any chosen consecutive thirteen (13) weeks' period but in no event more than forty-eight (48) hours in any one week.

SEC. 2. No employee engaged in any plant, factory, or mechanical work shall be permitted to work in excess of one thousand forty (1,040) hours in any six (6) months' period, provided that time and one third shall be paid for all time worked in excess of eight (8) hours in any one day, or 44 hours in any one week, and provided further, that no such employee shall be permitted to work in excess of ten (10) hours in any one day nor in excess of forty-eight (48) hours in any one week.

SEC. 3. The maximum hours specified in Sections 1 and 2 of this Article shall not apply to:

(a) Employees in an executive, managerial, supervisory, or technical capacity, and their immediate assistants who receive a salary of \$35.00 per week or more.

(b) Outside salesmen.

(c) Employees on emergency maintenance or emergency repair work; nor to employees whose work may be directly affected by such emergencies.

(d) Chauffeurs, engineers, firemen, water tenders, oilers, or maintenance men, who shall not be permitted to work more than forty-eight (48) hours in any one week.

(e) Employees engaged wholly or partially in performing the functions of wholesale distribution (excluding, however, those employees engaged in manufacturing or production operations) shall

not be permitted to work in excess of forty-eight (48) hours in any one week.

(f) No watchman shall be permitted to work in excess of fifty-six (56) hours in any one week.

SEC. 4. No employee shall be permitted to work for a total number of hours in excess of the number of hours prescribed herein, whether he be employed by one or more employers.

ARTICLE IV—WAGES AND SALARIES

SECTION 1. No employee receiving a salary shall be paid less than \$15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city; nor less than \$14.50 per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; nor less than \$14.00 per week in any other locality.

SEC. 2. No employee on a wage basis shall be paid less than thirty-five cents (35¢) per hour, except as follows:

(a) Employees over sixteen (16) and less than twenty-one (21) years of age engaged in doing light work, such as the duties of messengers, junior clerks and the like, and beginners or apprentices who have had no previous experience or employment in the industry, shall be paid not less than twenty-eight cents (28¢) per hour. No employer shall knowingly employ or continue to employ any person as a beginner or apprentice who has worked in this industry for a period of ten (10) weeks, whether for one or more employers.

(b) The minimum rates of compensation for all employees in the southern district may be less than those provided in this section by not to exceed two and one half cents (2½¢) per hour.

(c) A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the State authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

SEC. 3. The number of employees of any member of the industry receiving wages as provided under Sections 2 (a) and 2 (c) of this Article shall not exceed ten percent (10%) of the total number of such member's employees.

SEC. 4. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SEC. 5. This Article establishes a minimum rate of pay which shall apply irrespective of whether an employee is compensated on a time rate, piece-work performance, or other basis.

SEC. 6. No employer shall permit work of any kind to be performed in any home or homes or outside of a factory, workshop, or the like, except that for a period of one year from the effective date of this Code, low-grade baseballs made with compressed cottonseed or

sweepings or compressed felt scraps, and playground balls made from scrap felt or other similar cheap waste material may be sewed in a home or homes, provided, however, that the compensation therefor shall be not less than the rate of pay in effect on July 15, 1929, plus an increase of twenty percent (20%), and provided, further, that the rates of compensation to be paid for such work shall have the approval of the Code Authority and be uniform throughout the industry. Within ninety (90) days after the approval of this Code, the Code Authority shall make or cause to be made a study of the practicability of elimination of home work insofar as possible and shall report its findings to the Administrator.

SEC. 7. It is the policy of members of this industry to refrain from reducing compensation for employment which compensation was, prior to June 16, 1933, in excess of the minimum wage herein set forth notwithstanding that the hours of work of such employment may be reduced and unless such adjustments have already been made since June 16, 1933, all members of this industry shall endeavor to increase the pay of all employees in excess of the minimum wage, as herein set forth, by an equitable adjustment of all pay schedules.

ARTICLE V.—GENERAL LABOR PROVISIONS

SECTION 1. *Child Labor.*—No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SEC. 2. *Provisions from the Act.*—In compliance with Section 7 (a) of the Act it is provided:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing, and

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 3. *Reclassification of Employees.*—No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

SEC. 4. *Standards for Safety and Health.*—Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment.

ERRATA SHEET

**CODE OF FAIR COMPETITION FOR ATHLETIC GOODS
MANUFACTURING INDUSTRY**

AS APPROVED ON FEBRUARY 2, 1934

Article VI, Section 1, fourth line "member" should be "Number."

SEC. 5. *State Laws.*—No provision in this Code shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary, or general working conditions, than are imposed by this Code.

SEC. 6. *POSTING.*—All employers shall post and keep posted complete copies of the wage and hour and general labor provisions of this Code in conspicuous places accessible to employees.

ARTICLE VI—ORGANIZATION, POWERS, AND DUTIES OF THE CODE AUTHORITY

SECTION 1. *Organization and Constitution.*—A Code Authority is hereby established to cooperate with the Administrator in administration of this Code and shall consist of twelve (12) members, or such other member as may be approved from time to time by the Administrator to be chosen by the Industry as hereinafter provided through a fair method of selection approved by the Administrator:

Subsection (a) Two members of the Code Authority to be selected by the Athletic Goods Manufacturers Association; one member to be selected by the National Association of Golf Club Manufacturers; one member to be selected by the Golf Ball Manufacturers Association; one member to be selected by the Tennis Racket Manufacturers Association; one member to be selected by the Athletic Shoe Manufacturers Association; one member to be selected by the Golf Bag Manufacturers Association; one member to be selected by the Sporting Goods and Athletic Wear Association; one member to be selected by the manufacturers of Tennis Balls; and not more than three members to be selected by those members of the industry who wish to participate in the activities of the Code Authority, who assent to and agree to abide by the provisions of this Code, but who are not members of any of the above mentioned groups.¹

SEC. 2. Pending the selection of the Code Authority, as prescribed in the foregoing Section, the Administrator shall appoint a Committee to act as a temporary Code Authority for a period not to exceed sixty (60) days from the effective date of this Code.

SEC. 3. The Administrator in his discretion may appoint not more than three (3) additional members without vote and without compensation from the industry, to serve for such period of time and to represent the Administrator or such group or groups as he may designate.

SEC. 4. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall impose no inequitable restrictions on membership, and shall submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

SEC. 5. In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply

¹ See paragraph 2 of Order approving this Code.

with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper, and thereafter, if he shall find that the Code Authority is not truly representative, or does not in other respects comply with the provisions of the Act, he may take such action as he may deem necessary under the circumstances.

SEC. 6. Any member of the industry shall be eligible for membership in any trade association or organized group participating in the activities of the Code Authority, upon compliance with the provisions of the bylaws relating to membership, provided that any person applying for such membership shall, in addition to the payment of such dues as are imposed upon and paid by all other members, accept a reasonable and equitable share of the cost of code administration. Such members of the industry who do not choose to become members of any trade association or organized group may participate in the activities of the Code Authority as herein provided by paying to the Code Authority such proportionate part of the cost of code development and administration as the Code Authority, subject to the Administrator's approval, shall prescribe to be fair and equitable.

SEC. 7. *Powers and Duties.*—The Code Authority shall have the following duties and powers to the extent permitted by the Act:

(a) To administer the provisions of this Code and provide for the compliance of the Industry with the provisions of the Act.

(b) To adopt bylaws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code at its own instance or upon complaint by any person, and to report the same to the Administrator.

(d) To obtain from members of the industry such information and reports as are required for the administration of the Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports shall be submitted by members to such administrative and/or government agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of the industry of any existing obligations to furnish reports to any government agency. No individual reports shall be disclosed to any other member of the industry or any other party except to such governmental agencies as may be directed by the Administrator.

(e) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(f) To make recommendations to the Administrator for the coordination of the administration of this Code with such other Codes, if any, as may be related to this industry, with a view of permitting joint action upon matters of common interest.

(g) To secure from members of the industry who assent to this Code and/or participate in the activities of the Code Authority

such proportionate payment of the reasonable expense of maintaining the Code Authority as may be determined by the Code Authority and approved by the Administrator.

(h) To recommend to the Administrator further fair trade practice provisions to govern members of the industry in their relations with each other or with other industries and to recommend to the Administrator measures for industrial planning, including stabilization of employment.

SEC. 8. Any action of the Code Authority or of any agency thereof, which the Administrator may deem unfair or improper, or contrary to the public interest, or which may be represented to him by any interested party, as unfair to any private interest, improper, or contrary to the public interest, may be suspended by the Administrator for such period of time, not to exceed thirty days, as he may deem necessary to afford an opportunity for investigation into such action. Further action by the Code Authority or of any agency thereof, may be held in abeyance by the Administrator pending his final determination of the matter under investigation.

ARTICLE VII—UNFAIR TRADE PRACTICES

The following practices enumerated in this Article VII shall constitute unfair methods of competition for all members of the industry and are prohibited. In addition thereto the practices listed in Schedules A, B, C, and D attached hereto and are made a part of this Code shall apply, respectively, to the following divisions of the Industry:

Schedule A shall apply only to manufacturers who produce and/or wholesalers who import balls, implements, and equipment used in any or all of the athletic games and sports enumerated below, except those used for the building and/or maintenance of the courts, fields, grounds, and pools where such games are played.

(a) Football, basket ball, soccer, rugby football, volley ball, water polo, and other athletic games using an inflated ball.

(b) Baseball, including all the variations thereof, played with a hard or soft ball and bat.

Schedule B shall apply only to manufacturers who produce and/or wholesalers who import golf balls and golf clubs.

Schedule C shall apply only to manufacturers who produce and/or wholesalers who import tennis racquets and tennis frames, including racquets and frames for the following related games: Court tennis, badminton, racquets, squash racquets, and squash tennis.

Schedule D shall apply only to manufacturers who produce and/or wholesalers who import especially constructed athletic shoes as defined in Article II, Section 2 of this Code.

SECTION 1. No member of the industry shall give, permit to be given, or offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal, or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising

except so far as such articles are actually used for commercial bribery as hereinabove defined.

SEC. 2. No member of the industry shall pay any money or make any gifts to athletic organizations, leagues, associations, athletes, or persons prominent in any of the various lines of sport to induce such athletic organizations, leagues, associations, athletes or persons to use, recommend, or adopt as "official" the athletic goods or equipment of such member, and then advertise that such athletic organizations, leagues, associations, athletes, or persons use, recommend, or have adopted as "official" such athletic goods or equipment without disclosing that such organizations, leagues, associations, athletes, or persons were the recipients of money or gifts from such member, with the tendency to injuriously affect the business of competitors.

SEC. 3. No member of the industry shall advertise that the winners of athletic competitions, or other individuals prominent in any of the various branches of athletics, use or have used the athletic goods or equipment of said member where such use is or has been induced by gifts or payments of money or is in any way obligatory, unless such advertisement shall also show that such winners or other individuals were the recipients of gifts or payments from such member or were obligated to use such athletic goods or equipment, where the tendency is to injuriously affect the business of competitors.

SEC. 4. No member of the industry shall give anything of value to any person employed in a capacity involving special trust (such as instructor, director of athletics, or advisor in any particular line of sports) without the knowledge of his employers, upon the condition or understanding, expressed or implied, that its goods be recommended or used by such person in preference to the athletic goods or equipment of a competitor or competitors of such member, with the tendency to injuriously affect the business of competitors; provided, that nothing in this section shall prevent any member of the industry from selling its goods to any such person upon whatever terms it sees fit, but without any condition or understanding, expressed or implied, as to the recommendations or use of said athletic goods or equipment, and provided, further, that nothing in this section shall be construed to alter in any way the provisions of Section (1) of this Article.

SEC. 5. No member of the industry shall use the names of prominent athletes or athletic goods or equipment used in the particular branch of athletics engaged in by said athletes when said athletes did not design or do not bona fide endorse or do not themselves bona fide use said athletic goods or equipment, and where from the use of said means there is a tendency and capacity to induce purchasers of said athletic goods or equipment to purchase said athletic goods or equipment in the belief that the same are bona fide used or endorsed, or were designed by said athletes, with the tendency to injuriously affect the business of competitors, provided that nothing contained herein shall be construed to deprive any person of any right which may be enjoyed under any existing law.

SEC. 6. No member of the industry shall falsely advertise or falsely represent that an athlete prominent in a particular line of sports or athletics, designed or uses or endorses certain athletic goods or equipment, with the tendency and capacity to deceive purchasers or prom-

spective purchasers and the tendency to injuriously affect the business of competitors.

SEC. 7. No member of the industry shall lease, sell, or contract to sell athletic goods or equipment, whether patented or unpatented, for use, consumption, or resale within the United States, or fix a price charged therefor, or discount from, or rebate upon such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the athletic goods or equipment of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale, or such condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

SEC. 8. No member of the industry shall either directly or indirectly discriminate in price between different purchasers of commodities, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce; provided, that nothing herein contained shall prevent discrimination in price between purchasers of the same class on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowances for differences in the cost of selling or transportation, or discrimination in price in the same or different communities made in good faith to meet competition; and provided further, that nothing herein contained shall prevent persons engaged in selling the products of this industry in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

SEC. 9. No member of the industry shall use on, or in any way in connection with the sale of, any of its athletic goods or equipment, the name, nickname, or initials of any athlete or person prominent in any line of sport when a competitor has previously acquired of the said athlete or person, and with his approval, the exclusive right and good will in and to said name, nickname, or initials for use on the same line of goods, and where the effect of the use by the said member of the industry of the said name, nickname, or initials is to deceive or tend to deceive the purchasing public as to the source or make of the said line of goods, and where the tendency is to injuriously affect the business of the competitor; provided that nothing contained herein shall be construed to deprive any person of any right which may be enjoyed under any existing law.

SEC. 10. No member of the industry shall maliciously induce or attempt to induce the breach of existing contracts between competitors and any athlete or person prominent in any line of sport relating to the use of said athletes' or persons' name, nickname, or initials, or maliciously interfere with or obstruct the performance of any such contractual duties or services with the purpose and effect of injuring or hampering such competitors in their businesses.

SEC. 11. No member of the industry shall mark or brand merchandise or the wrappings or packages thereof, for the purpose, or with the intent, or having the effect of misleading or deceiving the purchaser or consumer in respect to the quality, size, weight, or grade of the articles so marked or branded, or use materials or workmanship different or inferior to that claimed, stated, or implied in any mark or brand, label, wrapping, package, or advertisement.

SEC. 12. No member of the industry shall withhold from or insert in an invoice facts which make the invoice a false record wholly or in part of the transaction represented on the face thereof and/or pay or allow secret rebates, refunds, credits, or unearned discounts, whether in the form of money or otherwise.

SEC. 13. No member of the industry shall publish or circulate unjustified or unwarranted threats of legal proceedings which tend to harass or have the effect of harassing competitors or intimidating their customers. Failure to prosecute in due course shall be evidence that any such threat is unwarranted or unjustified.

ARTICLE VIII—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

SEC. 2. This Code, except as to provisions required by the Act, may be modified or amended on the basis of experience or changes in circumstances, such modifications or amendments to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the Administrator, unless otherwise provided.

ARTICLE IX—MONOPOLIES, ETC.

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE X—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 254.
Registry No. 1657-1-04.

SCHEDULES

SCHEDULE A

Additional unfair trade practices applicable only to manufacturers who produce and/or wholesalers who import balls, implements, and equipment used in any or all of the athletic games and sports enumerated below, except those used for the building and/or maintenance of the courts, fields, grounds, and pools where such games are played:

(a) Football, basket ball, soccer, rugby football, volley ball, water polo, and all other athletic games using an inflated ball.

(b) Baseball, including all the variations thereof, played with a hard or soft ball and bat.

ARTICLE I

SECTION 1. No member of this division of the industry shall stamp the name "official" on other than top-grade conventional type of playground balls, footballs, soccer balls, or basket balls and volley balls, both inseam and outseam styles, and/or special balls provided that they are not sold at a lower price than his top-grade conventional type.

Sec. 2. No member of this division of the Industry shall offer for sale as "seconds", "defective", or as inferior quality merchandise, any products of this division which are in fact not defective or inferior in any material respect.

Sec. 3. No member of this division of the industry shall sell baseballs, playground balls, footballs, soccer balls, basketballs, or volley balls unless the said balls are branded, with a name or other mark of identification.

Sec. 4. No member of this division of the industry shall guarantee any of the products of this division except as to their freedom from defects affecting the quality, quantity, grade, or construction thereof, or replace for any other cause, any such product which has been used.

Sec. 5. No member of this division of the industry shall give trophies or other things of value for the adoption or use of any merchandise by any team, club, association, league, or educational institution, excepting only professional baseball leagues operating in organized baseball.

Sec. 6. No member of this division of the industry shall make any donation of balls or money to professional baseball leagues in excess of a schedule of donations when such schedules shall be agreed upon from time to time by this division of the industry and approved by the Administrator.

Sec. 7. No member of this division of the industry shall stamp the names "Official League", "National League", or "American League", on other than the manufacturer's finest quality baseballs, made of the best quality wool yarn containing at least 95% wool.

Sec. 8. No member of this division of the industry shall sell merchandise on more favorable terms of credit than the following:

(a) On current orders, 30 days net, 2% ten days or 2% 10th proximo.

(b) On advance spring orders shipped after November 1, and spring samples whenever shipped, March 31 dating, 2% if paid April 10th.

(c) On advance fall orders shipped after June 1st, and fall samples whenever shipped, September 30th dating, 2% if paid October 10th.

(d) The rate of discount allowed on prepayment of invoices shall not exceed 6% per annum.

(e) Past due accounts shall be subject to the legal rate of interest provided for by the laws of the State governing the operation of the contract of sale.

(f) Nothing in this Section shall be deemed to apply to credit terms on foreign or export sales.

Sec. 9. No member of this division of the industry shall knowingly imitate the trade marks, trade names, recognized trade numbers, slogans, or other marks of identification of competitors; provided that nothing contained herein shall be construed to deprive any person of any right which may be enjoyed under any existing law.

Sec. 10. No consignment shall be made either directly or indirectly that has for its purpose and/or effect the taking or securing of new business, and/or that has for its purpose or effect the taking or keeping business away from a competitor. It is the intent of this section, and it shall be so construed, to permit a manufacturer by consignment to keep his own customers who lack working capital in business, or to salvage an account.

SCHEDULE B

Additional unfair trade practices applicable only to manufacturers who produce and/or wholesalers who import golf balls and golf clubs.

ARTICLE I

SECTION 1. No member of this division of the industry shall replace the original brand, name, or trade mark on used golf balls which have been remade, rebuilt, or renewed, or offer for sale used golf balls which have been remade, rebuilt, or renewed, without marking on each ball and on the cartons and boxes in which they are packed, one of the following words: "Remade", "Rebuilt", or "Renewed".

SEC. 2. No member of this division of the industry shall offer for sale any products of this division as "seconds", "defective", or as of inferior quality merchandise, which is in fact defective or inferior in any material respect.

SEC. 3. No member of this division of the industry shall sell golf balls unless said balls are branded with a name or other mark of identification.

SEC. 4. No member of this division of the industry shall guarantee any of the products of this division, except as to their freedom from defects affecting the quality, quantity, grade, or construction thereof or replace for any cause any such product which has been used.

SEC. 5. No member of this division of the industry shall sell merchandise on more favorable terms of credit than the following:

(a) On current orders, 30 days net, 2% ten days or 2% 10th proximo.

(b) On advance spring orders shipped after November 1st and spring samples whenever shipped, March 31st dating, 2% if paid April 10th.

(c) The rate of discount allowed on prepayment of invoices shall not exceed 6% per annum.

(d) Past due accounts shall be subject to the legal rate of interest provided for by any existing laws governing the operation of the contract of sale.

(e) Nothing in this Section shall be deemed to apply to credit terms on foreign or export sales.

SEC. 6. No member of this division of the industry shall knowingly imitate the trade marks, trade names, recognized trade numbers, slogans or other marks of identification of competitors; provided that nothing contained herein shall be construed to deprive any person of any right which may be enjoyed under any state or Federal law.

SEC. 7. No consignment shall be made, either directly or indirectly, that has for its purpose and/or effect the taking or securing of new business and/or that has for its purpose or effect the taking or keeping business away from a competitor. It is the intent of this section and, it shall be so construed, to permit a manufacturer by consignment to keep his own customers who lack working capital in business or to salvage on account.

SEC. 8. No member of this division of the industry shall make gifts of any kind to any golf player, either professional or amateur, nor charge such person a lower price for merchandise than the price charged other customers of the same class; provided any manufacturer may employ any golf player at an annual salary of not less than \$1,500.00, each to play with the balls and/or clubs of said manufacturer in tournaments and/or exhibition play, and/or for the use of his name as a trade mark on golf clubs and/or golf balls. No deduction from said salary of \$1,500.00 per year shall be made for failure to win any one or several tournaments, nor shall the said salary of \$1,500.00 include any part of the prize money won by the said player.

ERRATA SHEET
CODE OF FAIR COMPETITION
FOR THE
ATHLETIC GOODS MFG. IND.

As Approved on February 2, 1934

Schedule B, Section 2, the word "not" should be inserted between the words "fact" and "defective" so that the phrase reads "which is in fact not defective or inferior * * *".

(1)

SCHEDULE C

Additional unfair trade practices applicable only to manufacturers who produce and/or wholesalers who import tennis rackets and tennis frames, including rackets and frames for the following related games: Court tennis, badminton, racquets, squash racquets, squash tennis.

ARTICLE I

SECTION 1. No member of this division of the industry shall offer for sale as seconds or discontinued models, any rackets or frames which are not bona fide seconds or discontinued models. Such bona fide seconds or discontinued models shall be indelibly stamped with a steel stamp with the words "second" or "discontinued model" respectively.

SEC. 2. No member of this division of the industry shall guarantee any products of this division except as to their quality, quantity, grade or construction, and freedom from defects.

SEC. 3. No member of this division of the industry shall sell merchandise on more favorable terms of credit than the following:

(a) On current orders, 30 days net, 2% ten days, or 2% 10th proximo.

(b) On advance spring orders shipped after November 1st and spring samples whenever shipped, March 31st dating, 2% if paid April 10th.

(c) The rate of discount on prepayment of invoices shall not exceed 6% per annum.

(d) Past due accounts shall be subject to the legal rate of interest provided for by the laws of the State governing the operation of the contract of sale.

(e) Nothing in this Section shall be deemed to apply to credit terms on foreign or export sales.

SEC. 4. No consignment shall be made either directly or indirectly, that has for its purpose and/or effect the taking or securing of new business and/or that has for its purpose or effect the taking or keeping business away from a competitor. It is the intent of this section, and it shall be so construed, to permit a manufacturer by consignment to keep his own customers who lack working capital in business or to salvage an account.

SEC. 5. No member of this division of the industry shall make gifts of any kind to any tennis player, court tennis player, badminton player, racquets player, squash racquets player, squash tennis player, either professional or amateur, or charge such persons a lower price for merchandise than the price charged other customers of the same class, except that the first twenty men, twelve women, six juniors, four boys, and four girls, rank tennis players as per the ranking list of the preceding playing season of the U.S. Lawn Tennis Association, may be given free of charge tennis rackets, tennis racket frames, and restringing service; and further provided, any manufacturer may employ any tennis player or tennis professional at an annual salary of not less than \$1,000, each to play with the balls and/or tennis rackets of said manufacturer in tournaments and exhibition play, and/or for the use of his name as a trade mark on tennis rackets and/or tennis frames. No deduction from said salary of \$1,000 per year shall be made for failure to win any one or several tournaments, nor shall the said salary of \$1,000 include any part of the prize money won by the said player.



SCHEDULE D

Additional unfair trade practices applicable only to manufacturers who produce and/or wholesalers who import especially constructed athletic shoes as defined in Article II, Section 2 of the Code for the Athletic Goods Manufacturing Industry.

ARTICLE I

SECTION 1. No member of this division of the industry shall guarantee merchandise, except as to freedom from defect, quality, grade or construction, or replace for any other cause merchandise which has been used. No replacement or repairs free of charge shall be made unless the merchandise is returned to the factory and found defective.

SEC. 2. No member of this division of the Industry shall give credit for the return of samples unless they are returned within thirty days from the date of invoice.

SEC. 3. No member of this division of the Industry shall sell merchandise on more favorable terms of credit than the following:

(a) On current orders, 30 days net, 2% ten days, or 2% 10th proximo.

(b) On advance spring orders shipped after November 1, and spring samples whenever shipped, March 31st dating, 2% if paid April 10th.

(c) On advance fall orders shipped after June 1st and fall samples whenever shipped, September 30th dating, 2% if paid October 10th.

(d) The rate of discount allowed on prepayment of invoices not to exceed 6% per annum.

(e) Past due accounts shall be subject to the legal rate of interest provided for by the laws of the State governing the operation of the contract of sale.

(f) Nothing in this Section shall be deemed to apply to credit terms on foreign or export sales.

SEC. 4. No member of the industry shall knowingly imitate the trade marks, trade names, recognized trade numbers, slogans, or other marks of identification of competitors; provided that nothing contained herein shall be construed to deprive any person of any right which may be enjoyed under any existing law.

SEC. 5. No consignment shall be made, either directly or indirectly, that has for its purpose and/or effect the taking or securing of new business, and/or that has for its purpose or effect the taking or keeping business away from a competitor. It is the intent of this section, and it shall be so construed, to permit a manufacturer by consignment to keep his own customers, who lack working capital in business or to salvage an account.

SEC. 6. No member of this division of the industry shall give trophies or other things of value for the adoption or use of any merchandise by any team, club, association, league, or educational institution.